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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,168	11/28/2001	Mitchell O. Stec	stec	7971

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EXAMINER

WONG, STEVEN B

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/683,168

Applicant(s)
Stec

Examiner
Steven Wong

Art Unit
3711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 28, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-10 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation "the calculations from claim 4" is indefinite because it lacks a proper antecedent basis. Further, the recitation "from claim 4" is indefinite because the claim numbering may change wherein the recitation would become inaccurate and unclear. The recitation should particularly state the calculations instead of merely referring to a claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsley. Regarding claim 1, Townsley discloses a golfer's aid wherein a user determines his

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maximum driving distance based on information obtained at a driving range (note Figure 4) and uses this information on each hole of a golf course by use of an overlay on a layout of the hole itself. As the user visits every hole of the golf course, he will obviously determine a constant yardage based on the maximum driving distance and the longest par four hole on the course and will choose a club accordingly. Regarding the limitation for renaming the club in a positive manner, the examiner takes Official Notice that it is well known in the golf industry to supply clubs with names which have positive connotations attached thereto. For example, "Big Bertha" and "Warbird" are names of golf clubs sold in the industry and have positive connotations associated therewith.

Regarding the limitation for positively visualizing hitting the ball, the examiner takes Official Notice that it is well known in the art of sports to visualize oneself hitting the ball towards a particular location. It would have been obvious to one of ordinary skill in the art to have the golfer utilizing the golfer's aid of Townsley visualize himself hitting the ball in order to have him concentrate on the particular shot.

Regarding claim 2, Townsley teaches for the user to visit a golf driving range and hit numerous balls to determine an average driving distance for each club.

Regarding claim 3, it is well known in the sport of golf to subtract the driven distance from the length of the hole in order to determine the remaining distance and then choose the next appropriate club to use.

Regarding claim 6, the names given to clubs are seen as providing a positive outlook.

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Regarding claim 7, it would have been obvious to one of ordinary skill in the art to have the golfer visualize where the ball should land, the flight of the ball and hitting the ball in order to have him concentrate better on the particular shot.

Regarding claim 8, Townsley teaches for the golfer to use his device throughout an entire golf course.

Regarding claim 9, the examiner takes Official Notice that it is well known in the art of golf to take repeated shots should the first shot not be desirable. For instance, a golfer can hit a "Mulligan" where he tees an additional golf ball and tees off again.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Townsley in view of Lewis. Lewis discloses a golfer's aid wherein the invention may be a booklet or may utilized with a small electronic device. It would have been obvious to one of ordinary skill in the art to utilize the invention of Townsley with a small electronic device in order to provide an alternative means for providing the aid of Townsley to a golfer.

Allowable Subject Matter

6. Claims 4 and 5 appear to read over the prior art of record.

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Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is (703) 308-3135.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Official responses, subject to the provisions of 37 C.F.R. 1.6(d), can be faxed to (703) 305-3579.

Unofficial faxes which are meant for discussion purposes only should be sent to (703) 308-7768. It is strongly suggested that the examiner be contacted directly before sending any unofficial fax.


Steven Wong
Primary Examiner
Art Unit 3711

SBW
January 31, 2002